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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVE R. DEHART

Appeal 2009-006510
Application 10/659,594¹
Technology Center 2400

Decided: April 9, 2010

*Before JEAN R. HOMERE, JAY P. LUCAS, and STEPHEN C. SIU,
Administrative Patent Judges.*

LUCAS, *Administrative Patent Judge.*

DECISION ON APPEAL

¹ Application filed September 10, 2003. The real party in interest is Hewlett-Packard Development Co.

STATEMENT OF THE CASE

Appellant appeals from a final rejection of claims 1 through 4, 6, 7, 14, 17 through 19, and 21 through 23 under authority of 35 U.S.C. § 134(a). The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b). Claims 5, 8 to 13, 15, 16, and 20 are cancelled.

We affirm.

Appellant's invention relates to a method of providing print quality support to a user of a printer (Spec. 2, ll. 12-13). In the words of Appellant:

[A] device driver user interface contains a link to support information regarding print quality issues.
. . . [A] link is provided at a location in the user interface at which the user is most likely to see it when seeking help for a print quality problem.

(Spec. 8, ll. 3-7).

In particular, information regarding proper usage of the printing device as well as troubleshooting information is presented to the user. . . . [T]his support information can be presented in a document, site, or page that is accessed via a network and that can be viewed in a viewing window of a network browser that executes on the user computer.

(Spec. 8, ll. 13-17).

Claim 1 is exemplary, and is reproduced below:

1. A method for providing print quality support relative to a printing device, the method comprising:

executing a printing device driver on a computer so as to present a printing device driver user interface to a user on the computer, the printing device driver comprising a program stored on the computer that is used to control operation of a peripheral device separate from the computer;

presenting a link to print quality support in the printing device driver user interface on the computer; and

providing print quality support information to the user in a network browser separate from the printing device driver interface on the computer when the link is selected by the user.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Venkatraman US 5,956,487 Sep. 21, 1999

REJECTION

The Examiner rejects claims 1 through 4, 6, 7, 14, 17 through 19, and 21 through 23 under 35 U.S.C. § 102(b) as being anticipated by Venkatraman .

Appellant contends that the claimed subject matter is not anticipated by Venkatraman because the prior art reference fails to teach “executing a printing device driver on a computer,” as recited in claim 1 (App. Br. 9, bottom). The Examiner contends that each of the claims is properly rejected (Ans. 18, middle).

The rejection will be reviewed in the order argued by Appellant. The claims are grouped as per Appellant’s Briefs. We will only consider in this opinion those arguments raised in Appellant’s Briefs. Arguments that

Appellant could have made but chose not to are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

The pivotal issue is before us whether Appellant has shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 102(b). The issue specifically turns on whether Venkatraman teaches “executing a printing device driver on a computer,” as recited in independent claim 1.

FINDINGS OF FACT

The record supports the following findings of fact (FF) by a preponderance of the evidence.

Disclosure

1. Appellant has invented a method, device, computer readable memory, and system of executing a printing device driver on a computer so as to present a printing device driver user interface to a user on the computer. (*See* claim 1.) The claimed invention includes presenting a user with a link displaying print quality information in a computer user interface (*id.*). The user interface is separate from the printer (*id.*).

Venkatraman

2. The Venkatraman reference teaches executing a set of software for communication and user interface to a peripheral device so that the external computer system implements a screen-based user interface for the device. (*See* col. 1, ll. 57-61.) Venkatraman also teaches presenting a user with a URL showing print quality information in the computer user

display via web browser (col. 7, ll. 5-22; col. 5, ll. 38-40). The display and browser are separate from device 10. (*See Fig. 2.*) Device 10 is, for example, a printer (col. 3, ll. 50-51).

PRINCIPLES OF LAW

Appellant has the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006).

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citation omitted).

“This court has held in a number of decisions that a United States patent speaks for all it discloses as of its filing date, even when used in combination with other references.” *In re Zenitz*, 333 F.2d 924, 926 (CCPA, 1964) (internal citations omitted).

To serve as an anticipation when the reference is silent about the asserted inherent characteristic, such gap in the reference may be filled with recourse to extrinsic evidence. Such evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. *Continental Can Co. USA Inc. v. Monsanto Co.*, 948 F.2d 1264, 1268 (Fed. Cir. 1991).

ANALYSIS

From our review of the administrative record, we find that the Examiner presents his conclusions of unpatentability on pages 3 to 7 of the Examiner’s Answer. In opposition, Appellant presents numerous arguments.

*Arguments with respect to the rejection
of claims 1 to 4, 6, 7, 14, 17 to 19, and 21 to 23
under 35 U.S.C. § 102(b) [R1]*

Appellant argues that Venkatraman fails to teach the single limitation “executing a printing device driver on a computer,” as recited in claim 1 (App. Br. 9, bottom). Instead, Appellant argues that Venkatraman discloses a system in which a device 10 serves web pages to a computer that can be used to access device functions (*id.*).

In reply, the Examiner points out in the Answer that Venkatraman teaches execution of a driver where a web browser is executed on a computer connected to a peripheral device (Ans. 3, middle). For example, Venkatraman’s peripheral device is a printer (FF#2).

After carefully considering the entire record before us, we agree with the Examiner’s conclusion of unpatentability for the following reasons.

We find that Appellant has invented a method, device, computer readable memory, and system of executing a printing device driver on a computer so as to present a printing device driver user interface to a user on the computer (FF#1). The claimed invention includes presenting a user with a link displaying print quality information in a computer user interface (*id.*). The user interface, as claimed, is separate from the printer (*id.*). In comparison, Venkatraman teaches executing a set of software (Appellant’s

claimed “printing device driver”) for communication and user interface to a peripheral device (the “printer,” as claimed) so that the external computer system (Appellant’s claim limitation “on a computer”) implements a screen-based user interface (Appellant’s claimed “driver user interface”) for the device (Appellant’s claimed “printer”) (FF#2). Venkatraman also teaches presenting a user with a URL (Appellant’s claimed “link”) displaying print quality information in a computer user display via a web browser (*id.*). The display and browser (collectively Appellant’s claimed “interface”) are separate from device 10 (Appellant’s claimed “printer”) (*id.*).

We find that Appellant’s claim limitation “executing a printing device driver on a computer” is no different from a teaching in Venkatraman for “execut[ing] a set of software for communication and user interface to the device” (col. 1, ll. 58-59). Venkatraman teaches Appellant’s claim limitation “executing a printer device driver” where the patent says: “The external computer system usually executes a set of software for communication and user interface to the device. The external computer system may implement a screen-based user interface for the device.” (Col. 1, ll. 57-61.) More specifically, the “printing device driver,” as recited in claim 1, reads on Venkatraman’s “set of software” since the software is for communication and user interface to a device (col. 1, l. 59) that is a printer (col. 1, l. 19). Accordingly, we find sufficient teachings in Venkatraman to support the rejection [R1].

Appellant further argues that a “device driver,” as claimed, is not the equivalent of a web browser that downloads pages served by a device, such as Venkatraman’s printer (App. Br. 10, middle).

We find unpersuasive Appellant’s argument that the claimed device driver is not the same as Venkatraman’s web browser (*id.*). As we stated above, Venkatraman teaches Appellant’s claim limitation “executing a printer device driver” at column 1, lines 57 to 61 (FF#2). Since Appellant’s claim limitation “executing a printer device driver” reads on Venkatraman’s teaching for executing a set of software for communication and user interface to a peripheral device (*id.*), such as a printer (*see col. 1, l. 19*), we are not persuaded by Appellant’s argument regarding Venkatraman’s web browser. We note that the predecessor to our guiding court stated: “This court has held in a number of decisions that a United States patent speaks for all it discloses as of its filing date.” *In re Zenitz*, cited above.

Next, Appellant contends that Venkatraman does not teach “presenting a link to print quality support in the printing device driver user interface on the computer,” as recited in claim 1 (App. Br. 13, middle). Appellant contends that “[A]lthough Venkatraman may be said to generally teach presenting a link in a user interface served by the device 10, such a link is not provided ‘in the printing device driver user interface.’” (*Id.*).

In reply, the Examiner states in the Answer that Appellant’s claim limitation “presenting a link to print quality support in the printing device driver user interface on the computer” is taught in Venkatraman at column 7, lines 5 to 22 (Ans. 6, bottom). Indeed, the patent says “hyperlinks defined in the HTML file shown above direct the web browser to other web pages for various printer support functions.” (Col. 7, ll. 5-7). In addition, we note Venkatraman teaches that the “web browser includes a selection device that enables a user to select objects and URL links rendered on the display 42.” (Col. 5, ll. 38-40). We thus find that Appellant’s claim limitation

“presenting a link to print quality support in the printing device driver user interface on the computer” reads on Venkatraman’s display and web browser (collectively Appellant’s claimed “user interface”), which present URL links (Appellant’s claimed “link to print quality support”) to a user (FF#2). Accordingly, we find no error.

Dependent claim 4 recites, in relevant part, “presenting a link in association with a color tab.”

Regarding claim 4, Appellant argues: “Venkatraman does not even discuss device driver user interfaces. [Venkatraman’s focus is] web pages served by a printer to a computer browser. . . . Venkatraman says nothing whatsoever about a ‘color tab’ Venkatraman also fails to literally disclose a color tab Venkatraman’s . . . ‘user friendly interfaces’ [are not] ‘color tabs,’ [as claimed].” (App. Br. 14, top). . .

In reply, the Examiner finds that the patent teaches Appellant’s claimed “color tab” at column 3, lines 35 to 41 (Ans. 4, middle). The Examiner finds that the link displayed on a screen inherently has colors (*id.*).

We find unconvincing Appellant’s argument that Venkatraman fails to literally teach a “color tab,” as claimed. We note that the reference explicitly teaches web page links being illustrated by a representation of at least one color: black. (*See Fig. 3.*) That is, since the reference may be printed in black ink, a representation of the color black in the links of Venkatraman’s Figure 3 suffices to meet Appellant’s claim limitation “presenting a link in association with a color tab.” We thus find unconvincing Appellant’s argument that “Venkatraman fails to literally teach a color tab.” Accordingly we find no error in the rejection [R1] of claim 4.

Dependent claim 7 recites, in relevant part, “wherein providing print quality support information comprises presenting information regarding at least one of proper printing device operation and troubleshooting tips.”

Appellant further argues that “status information” and “printer service contracts” are not the same as Appellant’s claimed “presenting information regarding at least one of proper printing device operation and troubleshooting tips,” as in claim 7 (App. Br. 14, middle).

The Examiner finds that Venkatraman’s teachings for presenting printer manuals inherently include information and instructions regarding proper printing device operation or troubleshooting tips (Ans. 10, bottom).

To serve as an anticipation when the reference is silent about the asserted inherent characteristic, such gap in the reference may be filled with recourse to extrinsic evidence. Such evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference and that it would be so recognized by persons of ordinary skill.

Continental Can Co. USA Inc. v. Monsanto Co., cited above.

In light of *Continental Can Co. USA Inc.*, cited above, we find no error in the Examiner’s user of inherency regarding printer manuals and their contents. A person of ordinary skill in the art would have recognized that printer manuals, such as the ones taught by Venkatraman, typically and necessarily include “troubleshooting tips,” as claimed, for dealing with printer errors that commonly arise. That is, Venkatraman’s teachings for presenting printer manuals meet Appellant’s limitation “presenting information regarding at least one of proper printing device operation and troubleshooting tips” (claim 7) because Venkatraman’s teaching of

presenting manuals inherently includes the presentation of troubleshooting tips for printer device users. Accordingly, we find no error.

Next, Appellant contends that Venkatraman does not describe a device driver that is stored on a computer (App. Br. 15, middle); that Venkatraman “only describes web pages served by a printer to a computer web browser” (*id.* at 17, middle); and that “Venkatraman does not teach ‘a computer’ in communication with a printing device” (*id.* at 18, top).

We find unconvincing Appellant’s arguments above for at least the above-stated reasons. (*See supra.*) In particular, we refer Appellant to our analysis of the claimed “printing device driver” for further details (*id.*).

Finally, regarding claim 23, Appellant argues that “Venkatraman does not teach a computer comprising a resident device driver” (App. Br. 18, middle).

By merely reciting the claim language (*id.*), Appellant makes general allegations of patentability regarding claim 23. Such general allegations fail to demonstrate the Examiner’s error. Accordingly, we find no error regarding the analysis of claim 23.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that the Examiner did not err in rejecting claims 1 to 4, 6, 7, 14, 17 to 19, and 21 to 23.

DECISION

We affirm the Examiner’s rejection [R1] of claims 1 to 4, 6, 7, 14, 17 to 19, and 21 to 23.

Appeal 2009-006510
Application 10/659,594

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

peb

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